

GOVERNOR'S ACT REMOVING FROM

Office Bernalillo Officials is
Usurpation Pure and
Simple.

SO SAYS ATTORNEY CHILDERS

To The Daily Citizen.

Availing myself of the offer of The Citizen throwing its columns open for the discussion of the orders of Governor Ochoa attempting to remove from office the sheriff, treasurer and ex-officio collector, and school superintendent of Bernalillo county, I wish briefly to discuss the claim of unlimited executive power asserted by the governor and by the District Attorney. The claim in the brief filed with the governor, I feel sure that this claim will around the legal profession and all intelligent citizens of New Mexico. The bold enunciation of such a claim of unrestricted executive control of every office in the territory, now filed by the votes of the people, transcends in importance to the people of New Mexico, any possible charges against the incumbents of these offices. I do not mean by this statement to admit that the charges have been sustained by any evidence produced at the so-called hearings. The sufficiency or the truth of these charges is entirely irrelevant to a discussion of the prerogative claimed for the territorial executive. A simple statement of that claim will show that it is wholly immaterial, as to the power to exercise this prerogative, whether any charges whatever were made or any evidence adduced in support of them. What is that claim? Read the orders made by the governor, and it will be learned that the executive bases his power to remove on no specific law of the territory or of the United States, but we will quote the language of the order removing the sheriff. It is as follows:

"That his continuance in his office would make it impossible for me to discharge the duty imposed upon me by the legislation of congress that I shall take care that the laws be faithfully executed."

The power of removal is asserted upon the same ground in the orders in the other two cases, and it is the only ground asserted. This is the law upon which the district attorney based his claim of the power of removal in his brief. It is an assertion that the power which the president of the United States has to remove officers appointed by him, is vested in the governor of the territory as to officers elected by the people for a fixed term. It makes the governor the sole judge of what act on the part of a public official would render it impossible for the governor "to take care that the laws be faithfully executed." It is immaterial whether any act at all is committed or omitted. It is immaterial whether any hearing is had or any evidence adduced. This power the president has as to certain classes of officers, appointed by him. But neither the president nor the governor of any state or territory has ever before assumed to exercise any such power over an officer elected by the people. And I say this without the fear of contradiction. It is a power which the supreme court of New Mexico denied to the governor as to the office of district attorney, in the case of Wade vs. Ashenfelter, 4 N. M. 33. This decision has never been overruled, and is based upon and is supported by cases decided by the highest courts in the country. The act of congress creating the territory and defining the powers of the governor, provides, it is true, that "he shall take care that the laws be faithfully executed." Our supreme court has quoted with approval the following as to this pretended claim of executive prerogative:

"This clause is merely declaratory and directory. It confers no specific powers, nor does it enjoin any specific duty. This power of general supervision, says an able commentator on American law, is a duty enjoined on the federal and state executives. It would be dangerous, however, to treat this clause as conferring any specific power which they would not otherwise possess. It is to be regarded as a comprehensive description of the duty of the executive to watch with all vigilance over the public interests. The governor is not to execute the laws himself, but to see them executed. This duty is performed by lending the aid and power of the executive arm to overcome resistance to law. The history of the federal and state governments afford practical exposition of this clause of the constitution. In conformity with this construction, The executive is to see the laws executed as they may be expounded by those to whom that duty is entrusted. If this clause confers the power of supervision and dismission as to one officer, it also gives the same authority over every other one in the government . . . upon whom the performance of a duty may be enjoined. The injunction to see the laws executed is general and sufficiently comprehensive to embrace every law and officer. If, under this clause, the governor may dismis the secretary, it cannot be seen why he may not dismiss every other one, without regard to their manner of appointment or the tenure of office, and thus, by the construction of one clause, bring all the officers and the operation of all the laws of the state, under executive control. This would counteract the whole scope and design of the constitution, by substituting the changing and capricious will of one man for the fixed and known rules of the law. From this consequence there is no escape, if the rule be as contended for."—Wade vs. Ashenfelter, 4 N. M. 33.

The reasoning and conclusions expressed in this quotation are universally received as settled law by the courts and writers on constitutional law in the United States. The power of the president to remove from office does not rest solely upon this same language, which is found in the constitution, and the difference between the president and a governor has by all the authorities been discussed and defined. We cannot discuss them, in a reasonable space—it is sufficient to point out one difference. The president appoints the officer he removes—the officer is his subordinate in the execution of the laws. County officers elected by the people are not subordinates of the governor. If the governor is held to have the power claimed, the people of New Mexico have the right of the elective franchise with a vengeance. A governor, who may come from any state in the

Union and in whose selection they have no voice, may, from mere caprice, or because of a difference in politics, or for any reason satisfactory to the gubernatorial judgment as to whether the laws are faithfully executed, remove any officer elected by the people, in any county, precinct, city, town or village in the territory, when the executive finds that the officer's "continuance in office would make it impossible for the executive to discharge the duty imposed upon him by the legislation of congress, that he take care that the laws be faithfully executed."

I have endeavored temperately, to state what the governor claims. It is useless to contend that a hearing was accorded my clients. If the claim of the governor is well founded, notice to the accused and a hearing before him was but a matter of grace and not of right. The importance of the principles involved, and the novelty of the claim, is my apology for the length of this article. If the claim is well founded, so much the more urgent is it that every freeman in New Mexico who appreciates government by law and his rights as a freeman, should unite in one common demand for statehood, joint or single—any kind of statehood congress will give us.

W. B. CHILDERS.

CONTRACT HOLDERS ARE AGAIN WARNED

PREFERRED MERCANTILE COMPANY HELD IN BAD LIGHT BY PATRONS.

Some time ago The Citizen published a lengthy article relative to the Preferred Mercantile company of Boston, stating that the government declared the company unfit to do business, and warning the patrons to be on their guard.

H. R. Mitchner, the New Mexico representative of the company, called at The Citizen office the day following the publication of said article, and denied certain disclosures, but stated that a reorganization had taken place, out of which had sprung the Preferred Mercantile company of New York.

It will now be seen, from the subjoined official notice from Agent H. R. Mitchner, that both concerns are doing business in a most unsatisfactory manner, and contract holders are warned to make no further remittances.

The Notice

Albuquerque, N. M., Aug. 31. To the Patrons Formerly of the Preferred Mercantile Company of Boston and of the Preferred Mercantile Company of New York.

I deem it my duty to inform you that recent information from the headquarters of the latter concern, in which I am a contract holder, and for which I have been acting as agent, is not at all satisfactory, therefore I am not at all satisfied, and deem it best for the present at least, to suspend further collections for and remittances to it. I have for the present suspended payments on my own individual contracts.

I advise, therefore, that payments by all of you be held in abeyance until we are advised as to the exact legal status and conditions of the concern. As soon as I obtain any information in this regard I will promptly inform you all.

Very truly yours,
H. R. MITCHNER.

Albuquerque Business College Compelled to Seek Larger Quarters.

To the Public: As we anticipated, the very large enrollment of pupils forced us to arrange for larger quarters. We thereupon leased about 5,000 square feet of floor space in the Public Library building, where the college will open for business September 4. Here we shall have ample accommodations for 150 pupils. The library in the building will be a great convenience for our students.

We shall arrange for and equip a gymnasium, for the use of our pupils as well as the public in general, in the same building. The secretary of the college has offered the nucleus of a valuable collection of minerals to the trustees of the library for the purpose of establishing a museum of mineralogy for free public use.

Students should enter the college classes as early as possible, although entrance may be had at any time. GEO. S. RAMSAY, President. R. O. STOLL, Secretary.

SCOTT KNIGHT RETURNS FROM NORTHERN TRIP

TERRITORIAL FAIR ADVERTISING AGENT PLACARDS EVERY TOWN ALONG THE SANTA FE, BETWEEN HERE AND TRINIDAD.

Scott Knight, advertising agent for the twenty-fifth annual New Mexico territorial fair, returned last night from a trip to all the towns along the Santa Fe as far north as Trinidad, Colo. Mr. Knight thoroughly placarded the following towns with fair advertising matter: Cerrillos, Madrid, Thornton, Lamy, Santa Fe, Watrous, Wagon Mound, Springer, Maxwell City, Raton and Trinidad.

At each of the above towns the advertising agent was received with open arms and extended every courtesy. He says that without doubt the territorial fair from the northern towns will be in Albuquerque at the coming fair. The Trinidad base ball team will serve to bring a large crowd to the fair from that city.

The papers of the towns visited were also very liberal and all gave the fair a good boost.

Mr. Knight goes west tonight, and every town from Albuquerque to Needles, Cal., will soon know that the big fair will be held in this city.

SCHOOL BOOKS. WATCH FOR NEWCOMER'S INDUCEMENT.

MEET KNIGHT'S MIDNIGHT SUN SEPTEMBER 23.

Shavings CHEAP Shavings

FOR SALE CHEAP FOR SALE

AMERICAN LUMBER CO.

121 TELEPHONES AUTO. 449

NAMES ARE DRAWN FOR GRAND JURIES

United States and Bernalillo
County Jurors Selected
Today

BOTH JURIES ARE VERY STRONG

This morning before Judge Ira A. Abbott at the court house occurred the drawing of the jurors for the United States grand and petit juries and the Bernalillo county grand and petit juries. The list of jurors given below contains the names of many well known citizens, and the juries as drawn will be exceptionally strong:

U. S. Grand Jury.
Filomeno Montano, Rafael Chavez, Antonio Garcia, precinct 13; Old Albuquerque; Federico Jaramillo, Guadalupe Arazo, Sandoval county; Gaspar Tapin, Hilario Griego, Polonio Montano, Rosalia Jaramilla, John Mordy, Valencia county; Frank Stroeder, Joseph Boudiek, A. Simpler, M. Bocklett, A. W. Goodrich, Joseph Parr, Frank Vega, Salome Moya, Tomas Marcus, D. K. B. Sellers, George Boulden, Lewis Black, George D. Sweetland, John Slaughterbach, Albuquerque.

U. S. Petit Jury.

W. H. Greer, L. G. Rosenfield, J. W. Mallicoate, B. Toll, William Dean, A. T. Keith, R. L. Gentry, Albuquerque; J. O. Garcia y Griego, precinct 4; Jose Anaya y Tapia, precinct 9; Jose S. Sanchez, precinct 12; Crescencio Aragon, Bernalillo county; Anastacio Sandoval, Louis Alary, Juan de Jesus Molina, Juan Perea, Vidal Valencia, Esquipo Trujillo, Sandoval county; F. J. Van Mole, E. J. Davis, W. D. Kennedy, McKinley county; Federico Luna Baca, Leonor Andrae, Ramon Serna, David Trujillo, George Cochran, Cesar Perea, Yaldora de Serna, John Collins, Emiliano Baca, Bernalillo county.

Bernalillo County Grand Jury.

Coscho Lucero, precinct 3; Charles Allen, J. E. Bell, Henry Westerfeld, T. F. Keleher, Sr., J. A. Cuneo, Adam Fisher, precinct 12; Carl Hopping, A. L. Winchell, J. M. Hoss, J. C. Lawlor, George Elick, precinct 5; J. Scott, J. H. Shuffelbarger, George H. Brewer, precinct 26; Manuel Sedillo, Jesus M. Sanchez, Joaquin Pena, William McKim, Domiano Baca, Frank Kelly, precinct 5; Leonardo Hunick, Jose Ignacio Garcia, precinct 13; Jose Tapia, precinct 28; Preciliano Lucero, precinct 10; Franco Muniz, precinct 11.

Bernalillo County Petit Jury.

A. Michaels, H. J. Stone, D. A. Macpherson, C. E. Newcomer, A. S. Goodrich, H. B. Weiler, E. E. Greenleaf, James McCriston, P. E. Shuman, William McGugin, Samuel Neustadt, Jacob Weissenberg, precinct 26; M. A. Duran, precinct 13; Precioso Maldonado, Jacobo Tafaya, precinct 3; Manuel Romero, precinct 10; S. Vann, Sr., Harry Benjamin, B. O. Jaffa, E. Gradi, precinct 12; Francisco Baladon, Abran Dima, Abran Stanton, precinct 5; Jose Saveria, precinct 28; Miguel Lopez, John E. Herick, precinct 8; Santos Mora, precinct 24; David Metzgar, precinct 9; Malliquas Garcia, precinct 23; Pablo Sineros, precinct 24.

AT THE CASINO

Miss Kittie Nien sang "The Three Back Seats for Smokers" at the Casino last night in a manner to please the most fastidious. Then she sang a little skirt dance and then she sang some more, and four times did about 200 souls applaud with loud applause for another look at her. Miss Nien's frock last night was very becoming to her.

"Fernanda" was the bill of mirthful lines interpreted by the Wade Musical company, with Mr. Wade, Mr. Taylor and Miss Hutchison appearing in the leading roles.

Beginning with tomorrow night, "Fra Diavolo" will again be the bill at the Casino.

LOUNSBERRY HUNTING PARTY RETURNS NOT UNSUCCESSFUL

Ben All Lounsberry's hunting party to Southern New Mexico and Mexico, composed of himself, William Chabourne, a young attorney of New York, and Harry V. Poor, of H. W. Poor, a prominent banker of the Empire City, returned here this morning. The success of the hunt is told by the ruddy complexion of each of the hunters, and a mountain lion hide and a bobcat skin. They also bagged much small game.

They left the railroad at Hachita, where saddle and pack horses were secured, and made it a point to haul up at night as often as possible at one of the many ranch houses of the Victoria Land & Cattle company, on whose ranges they hunted.

Mr. Poor continued east for New York, and Mr. Chabourne left for California.

Schilling's Best means

of good-enough quality at fair prices.

At your grocer's money market.

Dissect at the Columbus hotel tomorrow. Roast lamb, mince sauce, roast pork and apple sauce and vanilla ice cream.

TOO LATE TO CLASSIFY.

WANTED—Experienced dining room girl, no other need apply. Columbus hotel.

WANTED—Boys, Western Union Telegraph Co.

WANTED—Pupils for private school; thorough instruction; call between 2 and 4 p. m., 418 South Third St., south door.

THE CELEBRATED
O. F. C.
WHISKEY
BOTTLED IN BOND.

THE GEO. T. STAGG CO.,
DISTILLERS
FRANKFORT, KY.

MELINI & EAKIN
SOLE AGENTS.
Albuquerque, New Mexico

AUTOMATIC PHONE 199.

Established in 1882.
F. G. PRATT & CO.

Sole agents for Casino Canned Goods, Jas. Heekin & Co's Coffees, Imboden's Granite Flour.

STAPLE AND FANCY GROCERIES
214 South Second Street.

Hillsboro Creamery Butter—Best on Earth.

Orders Solicited. Free Delivery

REDUCED PRICES
on Dental Work. Plates, \$5.00;
Gold Crowns, \$6.00; Fillings,
\$1.00 up. Teeth extracted without
pain, 50c. All guaranteed.

B. F. COPP, D. D. S.
Room 17, N. T. Armijo Bldg.



Time, Labor and Money

The saving of time means comfort. The saving of labor means ease. The saving of money means economy. All these savings can best be attained by installing a

PENINSULAR RANGE

In dollars and cents they cost no more. In quality they are superior. In durability they last longer. One-third better than any other. You are most cordially invited to examine our new line.

Prices in Plain Figures \$30 and Up

Old stoves taken at a fair valuation.

THE McBRIN FURNITURE CO., 205 Gold Ave.

HOLLENBECK HOTEL

A. C. BILICKE JNO. S. MITCHELL
LOS ANGELES, CALIFORNIA
CENTRAL LOCATION. EXCELLENT ACCOMMODATIONS
Reasonable Prices Splendid Restaurant

SATISFACTION GUARANTEED
New Mexicans and Arizonians spending the summer on the beaches are welcome to the use of our Ladies' parlors and Gentlemen's waiting rooms. Meet your friends there. Information and writing materials free. Ladies and children welcome.

All Depot car stop at the Hollenbeck. Electric excursion and beach cars pass the door.
HEADQUARTERS FOR NEW MEXICANS AND ARIZONIANS

Little Talk, But Big Facts

Our pushing, aggressive, never sleep method of advertising. An electric sign talks in the day time and "hollers" at night. A sign of your own choice. We hang the sign and keep it clean and brilliant at our expense. You pay for the current used—that's all. At the expiration of the time agreed upon, we take the sign off your hands. All sign lighting will be on flat rate basis. How's that for a bargain?

Talk with the LIGHT MAN—Fourth and Gold Ave.

Poor Woman

Two thirds of her time is spent in the kitchen, and she is entitled to as much comfort and relief as can be secured through modern time saving appliances.

See the Gas Man
Fourth and Gold Ave.

J. C. BALDRIDGE

NATIVE AND CHICAGO LUMBER

SHERMAN - WILLIAMS PAINT—Covers more, looks best, wears long, est, most economical, full measure

BUILDING PAPER—Always in stock. Plaster, Lime, Cement, Paint, Glass, Sash, Doors, etc.

FIRST STREET AND GOLD AVE. ALBUQUERQUE, N. M.



In "Queen Quality" Shoes the emphasis comes on the word "FIT." "Queen Quality" fits the foot—others do sometimes

\$3.00

Some Special Styles

\$3.50

Satisfying Shoes

If the word "Satisfaction" can ever be applied to shoes, it is to "Queen Quality." "Queen Quality" Shoes give you Satisfaction, and Satisfaction is the back-bone of all the virtues.

Fit—Reputation—Style—

a transference of excellencies—each the better for the other, and you find them all in "Queen Quality." It is the one shoe that has absolutely satisfied over a million critical, discriminating women. It will satisfy you.

We ask the pleasure of demonstrating this.

We have the sole right of sale.

GOLDEN RULE DRY GOODS CO.



Stop and Think

for a moment. What would be the use of inviting you to our store if we did not have the right

Floor Coverings

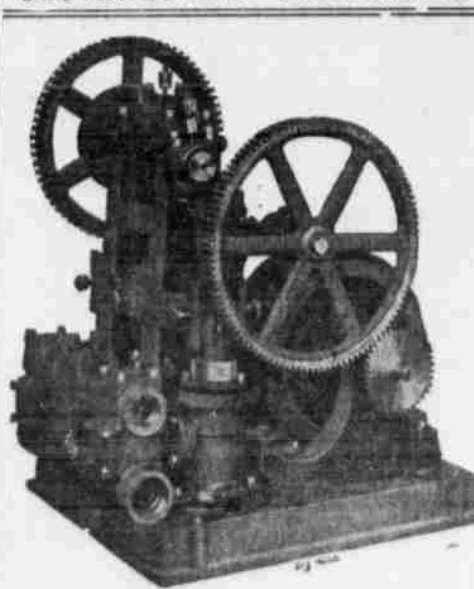
One visit under such circumstances would be enough. But we want you as a constant caller, so we make sure to have

Carpets and Rugs

that you can find no fault with—prices you cannot criticize.

Albert Faber, 305 Railroad Avenue

SOUTHWESTERN ELECTRIC & CONSTRUCTION CO.



Electrical Pumping Plants

Of Every Description

Agents for the Crocker-Wheeler
Dynamis and Motors

Store and Residence Wiring a Specialty. All Work Fully Guaranteed.

Agents for the Celebrated
"GYROFANS"

See them in European Hotel Restaurant

MEMBER
NATIONAL ELECTRICAL
CONTRACTORS' ASSOCIATION

We give Tickets for the Piano Contest

216 S. SECOND ST.

The Colorado Telephone Company.

Room 18, N. T. Armijo Building.

Do you realize that you can get MODERN Telephone Service today for what you are paying for inferior service.

The only Long Distance Transmitters and Receivers; Wall or Desk Sets; Long time contracts as you wish; Lowest rates.